

Bay Head Planning Board
March 19, 2014

The meeting of the Bay Head Planning Board was held on Wednesday, March 19, 2014 at 7:30 PM.

Mr. Furze read the following statement: "Pursuant to the applicable portions of the NJ Public Meetings Act, adequate notice of this meeting was mailed to the Ocean Star and posted in the corridor of the Borough of Bay Head and filed with the Bay Head Borough Clerk."

Roll Call: William Furze, William Curtis, Bart Petrillo, Robert Hein, Kathleen Wintersteen, William Tubbs, John Henry Morris, Thomas Charlton
Absent: Verity Frizzell, Kathleen Tell, Edward Convey, Patricia Wojcik, Frederick Applegate

The revised October, 2013 Minutes were approved as amended on a motion by Robert Hein and seconded by Kathleen Wintersteen, with all in favor.
The December, 2013 Minutes were approved on a motion by Bart Petrillo and seconded by William Tubbs, with all in favor.

Mr. Furze stated the Board had for review the **Resolution** of Scow Ditch, LLC, 532-534 Lake Avenue, a/k/a Block 54, Lot 2 which was approved at the meeting of February 19, 2014. A motion was made by Kathleen Wintersteen and seconded by Robert Hein to approve the Resolution. Roll call:
YEAS: Kathleen Wintersteen, Robert Hein, Bart Petrillo, John Henry Morris, Thomas Charlton
NAYS: William Furze
ABSENT: Verity Frizzell, Edward Convey, Patricia Wojcik

Mr. Furze stated the Board had for review the **Resolution** of Roger, Gregory and Lauren Gross, 229 East Avenue, a/k/a Block 37, Lot 3 which was approved at the meeting of February 19, 2014. A motion was made by William Curtis and seconded by William Tubbs to approve the Resolution. Roll call:
YEAS: William Curtis, William Tubbs, Bart Petrillo, Kathleen Wintersteen, John Henry Morris
NAYS: William Furze
ABSENT: Edward Convey, Patricia Wojcik

Mr. Furze stated the Board had for review four (4) applications this evening. He requested the fourth applicant, **Lee Kellogg Sadrian**, or her representative, to come forward.

Warren Nordfors, architect for applicant, came forth. Mr. Zabarsky marked into evidence a letter from applicant's attorney, John E. Ursin, Esq., dated March 18, 2014, requesting the application be carried to the next meeting on April 20, 2014. This was marked as B-1. He further requested no new notice be required.

Mr. Zabarsky clarified the next meeting will be April 16, 2014, whereby applicant will be first on the agenda, and no new notice is required. A motion was made to approve this by Kathleen Wintersteen and seconded by Robert Hein, with all in favor.

Mr. Furze stated the Board had for review the **Application** of KMH Clayton Enterprises, LLC, Jennifer Szot, 830 Clayton Avenue, Bay Head, a/k/a Block 70, Lot 4.

Derek Szot & Jennifer Szot were sworn in by Mr. Zabarsky. Mr. Szot clarified KMH Clayton Enterprises is the owner of the property, an LLC, of which he and his wife, Jennifer Szot, are the members.

Mr. Szot stated they were here to request a variance for the setback for the front of the property to allow for expansion of the deck and put in a stairwell. After their home was raised, they changed the configuration of such and were requesting to go up to 29.86 feet, wherein 35 feet is the minimum, and a pre-existing, non-conforming combined side yard setback of 23.08 feet wherein 25 feet is required.

The following items were marked into evidence:

- A-1 Application
- A-2 Survey
- A-3 Architectural plan
- A-4 Review letter from Board Engineer
- A-5 Hearing Notice Affidavit
- A-6 Affidavit of Publication

Mr. Szot testified their home was substantially damaged by Superstorm Sandy, especially the first floor. Seeing as how the house is on two levels, they had to raise the lower level of the house for insurance purposes and to meet the flood elevation requirements. He stated that replacing the existing deck and adding the stairs will be aesthetically pleasing and provide for a better transition to the height of the main deck.

The witnesses testified the house is being raised approximately 4 feet. They are not seeking a variance for the height of the house, which they believe is approximately 32 feet, however, they were not sure if the measurement of 32 feet to the peak of the roof was from the grade of the lot or from the base flood elevation.

Mr. Szot and Mrs. Szot testified they spoke with their neighbors who reside adjacent to their house. They testified that the first set of plans provided for more of an encroachment into the front yard setback with regard to the new deck and stairs, and that as a result of their discussion with their neighbors, a new set of plans was submitted lessening the encroachment by approximately 6 feet. The front yard setback is measured to the waterfront. The Szots further testified that the height of their house will still be “shorter” than the adjacent houses.

Mr. Furze asked if there was any public comment. There was none.

A motion was made by Mayor Curtis and seconded by Bart Petrillo to approve the application with the conditions discussed.

Roll Call: YEAS: William Curtis, Bart Petrillo, William Furze, Robert Hein, Kathleen Wintersteen, William Tubbs, John Henry Morris, Thomas Charlton.

Mr. Furze stated the Board had for review the **Application** of Joseph and Whitney Collins, 447 Club Drive, Bay Head, a/k/a Block 49, Lot 4.

Francis Rodman Rupp, Esq., 202 Broadway, Point Pleasant Beach, NJ stated he is representing the applicants. who are requesting bulk variances for a lot area of 4,466 square feet wherein 5,000 square feet is required, a front yard setback of approximately 12.9 feet wherein 20 feet is required, a minimum side yard setback of 5.6 feet wherein 6 feet is required, and a side yard setback of 1.5 feet wherein 4 feet is required for an accessory structure, all of which are pre-existing, non-conforming conditions.

The following items were marked into evidence:

- A-1 Application
- A-2 Survey
- A-3 Architectural plans
- A-4 Review letter from Board Engineer
- A-5 Hearing Notice Affidavit
- A-6 Affidavit of Publication

Joseph Collins, 447 Club Drive, Bay Head, NJ, was sworn in by Mr. Zabarsky.

Mr. Collins testified that he, along with his wife Whitney, are the owners of the subject property which they purchased in August, 2012. He said they use the home as a weekend vacation home and do not rent it out.

Mr. Collins testified the house was substantially damaged by Superstorm Sandy. He stated there was flooding throughout the first floor and the entire house had to be gutted. He acknowledged that during the renovation process, the house was torn down to the foundation, which still exists. He testified they intend to rebuild the structure consistent with the prior structure, adding a partial second story and porch. He stated the new residential dwelling will be within the footprint of the existing foundation. Further, the partial second story and porch are within the setbacks and do not require variances.

Ronald Meeks, licensed architect in New Jersey, New York and Pennsylvania, and professional planner in New Jersey, 404 Central Avenue, Cranford, New Jersey, was sworn in by Mr. Zabarsky.

Mr. Meeks testified he personally inspected the site and prepared the architectural plans submitted to the Board.

Mr. Meeks testified that the house has been demolished down to the foundation. He further testified that the lot has an irregular shape which necessitates the variance for lot area. He stated the other variances being sought for front yard and side yard setbacks were pre-existing, non-

conforming conditions that existed prior to the storm. Mr. Meeks represented that the height of the house, as well as all other aspects of the new residential dwelling, will conform to the Land Use Ordinances. He testified that the applicants have no objection to relocating the shed shown on the plans to conform to the Zoning Ordinance requirements; this will alleviate the need for a variance. Further, he stated applicants will withdraw their request for a variance for the encroachment of the shed into the setback.

Mr. Meeks testified there are 2 parking spaces available on site and no variance is requested. He testified the air conditioning condenser units will comply with the Zoning Ordinance requirements, and no variance is being requested. He stated the first floor will be raised 7 feet above current grade, that the proposed second floor addition and porch do not encroach into the setback and no variance is being requested for the addition to the previously existing structure; there will be new landscaping on the site and the proposed application for development will be built upon the existing foundation and remain within that footprint. He further testified the rear deck is approximately 6" above grade and does not require a variance, and that the stairs will not extend beyond the front façade of the structure.

Mr. Furze asked if there was any public comment. There was none.

A motion was made by Kathleen Wintersteen and seconded by Bart Petrillo to approve the Application as amended with the conditions discussed.

Roll call: YEAS: Kathleen Wintersteen, Bart Petrillo, William Furze, William Curtis, Robert Hein, William Tubbs, John Henry Morris, Thomas Charlton

Mr. Furze stated the Board had for review the **Application** of Lambro & Helen Demetriades, 646 Main Avenue, Bay Head, a/k/a Block 59, Lot 28.

Mrs. Demetriades stated that her attorney was currently in Point Pleasant Borough before the Planning Board there and was running late. Applicants decided not to proceed without counsel and requested their application be carried to the next meeting, namely, April 16, 2014, without further notice. Mr. Zabarsky informed applicants they would be second on next month's list.

A motion was made to do so by Robert Hein and seconded by William Tubbs. All in favor.

Mr. Furze brought up **Old Business**.

Mr. Hein wanted to know what the final decision was regarding the Master Plan. Mr. Zabarsky informed him it is done every ten years and we are only six years into it, so we have another three years.

Mr. Furze brought up **New Business**.

Mayor Curtis stated that NJ Transit came to him and stated we need to elevate and build a new electrical substation, and they are applying to the DEP for various permits and to various historical societies as a heads up to get permission to build a structure that if the Mayor reads it correctly, is 52.5 feet in the air. Mayor Curtis further stated that if you take BFE plus whatever,

it can't be higher than our Ordinance which is 32.5 feet + BFE. The Mayor stated they claim we have no recourse to make them adhere to our Ordinances and feels the Planning Board should have access to a hearing and should be able to control that even though its not our property, as it is within the boundaries of the Borough of Bay Head. He questioned Mr. Zabarsky if there was something we could do.

A discussion ensued and Mr. Zabarsky said he would look into it but felt the Planning Board as an entity was not the appropriate entity, it would be the governing body saying they need site plan approval, or they need variances, or they need something under our Ordinances or police power, and issue them notices of warning or violations if they proceed. He indicated he would need to see the proposal and check out the cases and get back to the Board on that. He didn't know if we also wanted the Borough attorney to do that as well; the Mayor said he would ask. Mr. Zabarsky stated usually there is a hearing that the Borough can attend and be heard.

Ordinance 2014-01 was brought up regarding amending the zoning map for Block 47, Lot 1 at Metcalf Street and West Lake Avenue, to be in B-1 General Business Zone. There were no objections by the Board.

A motion was made by William Curtis and seconded by Robert Hein to approve the **vouchers**. All in favor.

The meeting adjourned on a motion by Kathleen Wintersteen and seconded by William Tubbs. All in favor.

Respectfully submitted,

Claire S. Hense